

REMARKS

Reconsideration and allowance are respectfully requested.

The claims proposed in this Response particularly point out and distinctly claim the subject matter of the invention. No new matter has been added. Entry and allowance are requested.

Claims 1-7 and 10-16 are patentable under 35 U.S.C. 103(a) over Mitchell et al. (US patent 6,046,686). Applicant traverses the Official Notice taken by examiner that controllers are well known and expected in the art. Applicant traverses the examiner's holding of what one skilled in the art "would readily recognize" without citing art.

Mitchell relates to a speed display device which displays a steady amber color or a flashing red color responsive to a vehicle's measured speed being less than or greater than a threshold speed.

The Examiner contends that Mitchell's amber and red color displays are the same as the claimed green and red displays because the latter is a mere "engineering design choice." However, if that were true, then all the traffic lights would have mere red and amber colors without the necessity of any green lights. But, that is not the case, because green lights having been used for traffic lights for decades are now associated with a "go ahead" signal to the viewer's brain, whereas red lights are associated with stops. Amber lights are provided as a warning for speeding vehicles to slow down and prepare for a stop when the transition is from red to amber to green. Therefore, amber lights are associated with caution rather than the

"go ahead" signal of green lights.

The present invention uniquely uses that feature to provide motorists with an option of proceeding when the green lights are displayed (at or below speed limits) and slowing down when flashing reds indicate above normal speeds. Motorists will not be confused between the amber traffic lights which signal caution and will be the end result of the Mitchell device which has amber displays.

Nothing in Mitchell describes, teaches, or suggests the features of the present claims.

Citing In re Gordon, 221 USPQ, 1127, the court pointed out, "the mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification". In re Fritch, 23 USPQ2d 1783, 1784 (CAFC, August 1992).

Claims 8 and 17 are patentable under 35 U.S.C. 103(a) over Mitchell et al. (US patent 6,046,686) in view of Durinzi Jr. et al. (6,427,369).

As pointed out above, Mitchell does not teach nor suggest the claimed invention. Therefore, any further combination with secondary references will also lead away from the present claims.

Durinzi has been relied on as teaching lights for "illuminating the supporting with color." However, Durinzi, with or without Mitchell, does not teach nor suggest illuminating a speed monitoring display with light that illuminates the support in the casing.

Durinzi is an advertising kiosk holding translucent sheets on a movable frame with writing thereon. Fluorescent lamps mounted

adjacent to and inside the kiosk illuminate the sheets to enable passers by to read the copy on the sheets. There is no suggestion or motivation within the two references to arrive at the Examiner's modification which stems from the present disclosure due to hindsight reconstructions. However, that cannot be a basis for any obviousness holding. Durinzi uses preprinted advertising sheets illuminated from behind. The present invention uses lights to illuminate part of the invention. It would not have been obvious to combine the lighting system of the present invention with the preprinted advertising illumination system of Durinzi, because requiring preprinted sheets to provide color for the speed of an automobile would prove to be completely impractical.

"It is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious." In re Fritch, 23 USPQ2d 1783, 1784 (CAFC, August 1992), quoting from In re Gorman, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991). "This court has previously stated that one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." Id. quoting from In re Fine, 5 USPQ2d 1600 (CAFC, 1988).

Claims 9 and 18 are patentable under 35 U.S.C. 103(a) over Mitchell et al. (US patent 6,046,686) and Hoffman (US patent 4,173,010) in view of Martell et. al. (US patent 5,317,311).

As pointed out above, Mitchell does not teach nor suggest the claimed invention. Therefore, any further combination with secondary

references will also lead away from the present claims.

Hoffman is relied upon as providing a roadside system comprising logic circuits. The logic circuits in Hoffman include a violation counter and a traffic counter. Additionally Hoffman teaches an upper sign panel with a clock mounted on the system to indicate time in photograph of speeding automobiles. Though Hoffman includes this external clock in his system, he includes no memory to store the time. This is important as statistics may vary widely during different points in day. The clock in the invention of Hoffman acts merely as a date and time indication in photographs of those automobiles caught speeding.

Martell would not have been obvious to combine with any other reference because Martell is a remote recording system that has nothing to relate to Mitchell and Hoffman.

Furthermore, combining Mitchell, Hoffman, and Martell would destroy two major aspects of the functionality of the present invention: compact size and portability. The present invention, unlike that of Hoffman or Mitchell is easily transportable in a compact size and does not require the installation of pneumatic tubes (Hoffman) or Bolting equipment to structures near roads (Martell). Because combining Mitchell, Hoffman, and Martell would destroy major functionality of the current invention, it would not have been obvious to combine these inventions.

Obviousness is tested by what the combined teachings of the references would have suggested to those of ordinary skill in the art. It cannot be established by combining the teachings of the prior

art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Teachings of references can be combined only if there is some suggestion or incentive to do so. In re Fine, 5 USPQ2d 1596, 1599 (CAFC, 1988).

Nothing in the references, either singly or in combination, teaches or suggests the claimed features. Therefore, the references cannot anticipate nor render obvious the present invention as claimed.

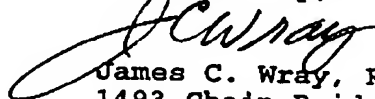
In deciding that a novel combination would have been obvious, there must be supporting teaching in the prior art. There is no suggestion or motivation in the prior art to combine the elements as done by the present invention and hence the claims cannot be rendered obvious. In re Newell, 13 USPQ2d 1248, 1250 (CAFC, 1989).

Applicant has presented a novel, unique and non-obvious invention.

#### CONCLUSION

Reconsideration and allowance are respectfully requested.

Respectfully,



James C. Wray, Reg. No. 22,693  
1493 Chain Bridge Road, Suite 300  
McLean, Virginia 22101  
Tel: (703) 442-4800  
Fax: (703) 448-7397

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